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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

Single Bench

S.A.No. 30 /06(S.B.)

APPELLANTS / DEFENDENTS

1. Naresh Jaiswal S/o Late Ramgopal Jaiswal,Aged about 23 years,
2. Jai jaiswal S/oLate Ramgopal Jaiswal,Aged about 23 years,

Bouth R/o Beedpara Raigarh,Teh.&Distt.-Raigarh

P.R. No. 174/06 Presented by Shri N.K. Ramdas dated 22/11/06

VERSUS

RESPONDENT / PLAINTIFF

Dhannuram S/o Late Budharam, Aged about 62 Years, Occupation- Biasness, R/o laltanki Road Raigarh ,Teh.&Distt.-Raigarh (C.G.)

APPEAL UNDER SECTION 100 OF CIVIL PROCEDURE COED

Valuation of this appeal is valued as courts below and

(20)

HIGH COURT OF CHHATTISGARH, BILASPUR

SECOND APPEAL NO.30/2006

Naresh Jaiswal and another

Vs.

Dhannuram

O R D E R

Post for 21.6.2006

Sd/-
Sunil Kumar Sinha
Judge

Noted
VKpandey
21-06-2006.

(21)

HIGH COURT OF CHHATTISGARH, BILASPUR

SECOND APPEAL NO.30/2006

Naresh Jaiswal and another

Vs.

Dhannuram

Appearance:

Shri Vineet Pandey, counsel for the Appellants.

ORDER
(21.6.2006)

SUNIL KUMAR SINHA, J

(1) This is the defendants' second appeal filed u/s 100 of the Code of Civil Procedure.

(2) The appeal is directed against the impugned judgment and decree dated 23.11.2005 passed in Civil Appeal No.6-A/2005 by the 1st Addl. District Judge, Raigarh (C.G) arising out of judgment and decree dated 27.1.2005 passed in Civil Suit No.9-A/2002 by the 4th Civil Judge, Class-II, Raigarh.

(3) The brief facts are that the plaintiff (landlord) filed a suit for arrears of rent and vacant possession of the disputed premises mainly on the grounds specified in section 12(1)(g) of the C.G. Accommodation Control Act, 1961. The plaint allegations are that the defendants (tenants) were in arrears of rent of Rs.6400/- as the monthly rent of 2 years and 8 months was not paid to the plaintiff. Secondly the rented accommodation has become unsafe and totally unfit for human habitation and was required bonafide by the landlord for carrying out repairs/reconstruction which could not be carried out without the accommodation being vacated. The defendants remained exparte before the trial court and no written statement was filed by them.

(4) The learned trial Court recorded a finding that the defendants were in arrears of Rs.6400/- and the plaintiff was entitled to receive the said amount. It also recorded a finding that the rented accommodation is in a dilapidated condition and it has become unsafe. However, the trial

Court partly allowed the suit, passed a decree for arrears of rent only and also for future rent @ Rs.200/- p.m. from the date of institution of the suit till the date of recovery of possession. The decree for eviction was not passed holding it not necessary, as according to the trial Court, the defendants were not residing in the rented premises on the date of passing of the decree.

(5) Being aggrieved with the aforesaid judgment and decree passed by the trial Court, the plaintiff filed an appeal before the lower appellate Court. The lower appellate court allowed the appeal and in addition to the decree for arrears of rent, it also passed the decree for eviction. It is against this judgment and decree, the defendants have filed this second appeal.

(6) Learned counsel for the appellants/defendants argued that the finding in relation to the accommodation being unsafe or unfit for human habitation is perverse.

(7) I have gone through the records of the two courts below. For proving the case, the plaintiff examined himself and he also examined one Manoj Singhal (P.W.2). The plaintiff has categorically stated about the arrears of rent as also about the physical condition of the accommodation saying it to be unsafe and unfit for human habitation. Not only this, a notice of Municipal Coucil, Raigarh, has also been brought on record as Ex.P.2 in which it is stated that the aforesaid accommodation has become unsafe and unfit for human habitation and within 3 days of the receipt of the notice, the said accommodation be demolished by the plaintiff and a written information to this effect be sent to the Municipal Council, failing which an action u/s 221(2) of the M.P.Municipalities Act 1961 shall be taken and the cost incurred shall be recoverable from the plaintiff.

(8) In the facts and circumstances, there appears to be no perversity in the finding recorded by the two courts below regarding the accommodation being unsafe or unfit for human habitation and its bonafide requirement by the landlord for carrying out repairs/reconstruction.

(9) In the opinion of this court, no substantial question of law is involved in this appeal and this appeal filed u/s 100 of the Code of Civil Procedure is dismissed at the motion stage itself.

Sd/-
Sunil Kumar Sinha
Judge

Rao